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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

*[Request for Reimbursement of*

FILE: B-172742

DATE: November 24, 1980

MATTER OF: William V. Ferris - Real Estate Expenses -  
Purchase of Residence

- DIGEST: 1. Employee of Department of Justice who purchased residence in Miami, Florida, incident to transfer (may be reimbursed cost of a roof inspection.) Where (inspection was required as a precondition for obtaining financing to purchase residence, fee is viewed as a required service customarily paid by purchaser) as contemplated by FTR, paragraph 2-6.2f. 46C 00037
2. (Employee who purchased residence incident to transfer may not be reimbursed cost of cashier's check to complete downpayment and closing costs since cost of cashier's check is not specifically enumerated nor type of expense that is reimbursable under FTR, paragraph 2-6.2d.
3. Employee who purchased residence in Miami, Florida, incident to transfer may not be reimbursed cost of premium for flood insurance since paragraph 2-6.2d, FTR, specifically precludes reimbursement of cost of insurance against damage or loss of property.
4. Employee who purchased residence in Miami, Florida, incident to transfer may be reimbursed cost of mortgage title policy which primarily is for protection of the lender and reimbursable under FTR, paragraph 2-6.2d. Cost of owner's title policy is not reimbursable in absence of showing that employee was legally required to obtain such a policy in connection with purchase of residence.

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- 5. Employee who purchased residence in Miami, Florida, incident to transfer may be reimbursed legal fees of lending institution's attorney and his own attorney if it is customary for purchaser to be represented by own attorney, as well as pay for legal services rendered by lender's attorney, and provided fees are within customary range of charges in Miami area.

↘ This decision is in response to a request by Mr. Edwin J. Fost, Chief, Accounting Section, Office of the Controller, Drug Enforcement Administration, *DLC 02550* United States Department of Justice, for a determination as to whether a reclaim voucher submitted by Mr. William V. Ferris, an employee of the Drug Enforcement Administration (DEA), may be certified for payment. The claim is for reimbursement of certain real estate expenses incurred by the employee in the purchase of a residence at his new duty station.

*ACC00010*

The facts and circumstances involved in the claim, briefly stated, are as follows: By Travel Order No. B-0316 dated May 22, 1978, Mr. Ferris was authorized a permanent change of official duty station from Boston, Massachusetts, to Miami, Florida. In connection with the transfer, the employee sold his residence in Easton, Massachusetts, purchased a residence in Miami, Florida, and was reimbursed the sum of \$6,928.53 for real estate expenses. The purchase expenses reclaimed by the employee are as follows:

1. Roof Inspection	\$ 25.00
2. Cost of Cashier's Check	1.00
3. Lender's Attorney Fee	583.75
4. Flood Insurance	85.00
5. Lender's Title Policy	280.00
6. Owner's Title Policy	65.00
7. Buyer's Attorney Fee	<u>365.00</u>
Total	\$1,404.75

With respect to the lender's attorney fee of \$583.75, this amount was previously reimbursed to Mr. Ferris by DEA. The accounting officer requests

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our determination in regard to reimbursement of the remaining expenses totaling \$821.

The basic authority for reimbursement of expenses incurred in connection with residence transactions incident to a permanent change of official station is found at 5 U.S.C. § 5724a (a)(4) (1976), and in the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973). The applicable provisions of the FTR provide for reimbursement, in pertinent part, as follows:

Paragraph 2-6.2d

"\* \* \*The cost of a mortgage title policy paid for by the employee on a residence purchased by him is reimbursable but costs of other types of insurance paid for by him, such as an owner's title policy, a 'record title' policy, mortgage insurance, and insurance against damage or loss of property, are not reimbursable items of expense.\* \* \*"

Paragraph 2-6.2f

"\* \* \*Incidental charges made for required services in selling and purchasing residences may be reimbursable if they are customarily paid by the seller of a residence at the old official station or if customarily paid by the purchaser of a residence at the new official station, to the extent they do not exceed amounts customarily charged in the locality of the residence."  
(Emphasis added.)

The claimed real estate expenses are for processing in the following manner:

1. Roof inspection.

We have held that where a roof inspection is required as a precondition for obtaining financing on the purchase of a residence, the inspection fee is reimbursable as a required service customarily paid by the purchaser. Robert E. Grant, B-194887, August 17, 1979. In Grant, it was stated that apparently in the Miami area, a roof inspection is considered negotiable and customarily may be paid by either the buyer or the seller. There the employee supplied information

showing that the roof inspection was required as a precondition to obtaining a conventional loan on the purchase from a local bank. This fact was confirmed as a customary practice by the local Office of the Department of Housing and Urban Development (HUD). The local HUD office also confirmed that the claimed expense was reasonable for the Miami area.

Inasmuch as it is the recognized customary practice in the Miami area to require a roof inspection as a precondition to a buyer obtaining a conventional loan from a local bank on the purchase of a residence, we regard the roof inspection fee here as being reimbursable as a required service customarily paid by the purchaser of a residence in the Miami area as contemplated by FTR, paragraph 2-6.2f.✓

2. Cost of cashier's check.

The amount of \$1 is claimed by Mr. Ferris representing the cost of a cashier's check to complete the downpayment and closing costs at the time of closing. Paragraph 2-6.2d of the FTR sets out the miscellaneous expenses on real estate transactions that are reimbursable with respect to the purchase of a residence at the employee's new duty station. In our opinion, the cost of a cashier's check is not specifically enumerated nor is it the type of expense that is reimbursable under FTR, paragraph 2-6.2d.✓ Therefore, such expense incurred by the claimant here is not reimbursable.

3. Flood insurance.

The employee states that in purchasing his residence in Miami, he was required to purchase flood insurance by the lender in order to obtain the mortgage loan. He seeks reimbursement therefor in the sum of \$85. In this regard, FTR, paragraph 2-6.2d.✓ states that insurance against damage or loss of property paid for by the employee on a residence purchased by him at his new duty station is not a reimbursable item. The aforestated regulatory provision specifically precludes reimbursement of the cost of insurance against damage or loss of property which includes flood insurance. In light thereof, Mr. Ferris may not be reimbursed the cost of the premium for flood insurance irrespective of the fact that he was required to purchase

such insurance by the lender as a prerequisite to obtaining the mortgage loan.

4. Lender's title policy and owner's title policy.

With respect to reimbursement of the premium paid for a mortgage title policy, the decisions of this Office have recognized that such title insurance premiums which are purchased primarily for the protection of the lender, are reimbursable within the meaning of paragraph 2-6.2d of the FTR. James E. King, B-183958, April 14, 1976, and B-164867, September 4, 1968. On the other hand, we have stated that as distinguished from a mortgage title policy, the cost of which is reimbursable, an owner's title policy is one that the purchaser of a residence obtains for his own protection. As such, it is generally regarded as a nonreimbursable personal expense and not essential to consummation of the real estate transaction. FTR, paragraph 2-6.2d; Alex Kale, 55 Comp. Gen. 779 (1976); William H. Brewster, B-193750, August 28, 1979.

Notwithstanding the fact that the FTR disallows the cost of an owner's title policy, this Office has held that the employee may be reimbursed for the cost of such insurance where (1) the owner's title policy was purchased as a prerequisite to the transfer of the property, or, (2) the policy was purchased as a prerequisite to obtaining financing incident to such a transfer, and such cost is customarily paid by the purchaser. Alan G. Bolton, Jr., B-189488, August 18, 1977; James T. Rideoutte, B-188716, July 6, 1977; Carl F. Wilson, B-186579, October 28, 1976; and B-176663, February 20, 1973.

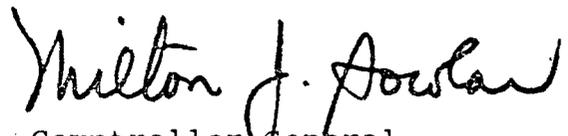
In the instant case, the cost of the lender's portion of the title insurance underwriting premium covering the mortgage at \$85,000 was \$280, while the owner's portion covering the purchase at \$22,500 was \$65, a total cost of \$345. It would appear that the mortgage title portion of the underwriting premium (\$280) was required by the lender. Therefore, Mr. Ferris may be reimbursed the amount of \$280 since the cost of a mortgage title policy is allowable under FTR, paragraph 2-6.2d.

With respect to the remaining \$65, representing the cost of the owner's portion of the underwriting premium, such cost may not be allowed in the absence of a showing that Mr. Ferris was legally required to obtain such a policy in connection with the purchase of the residence at his new duty station. Brewster, supra.

5. Lender's attorney fee and buyer's attorney fee.

As stated earlier, Mr. Ferris has been reimbursed the cost of the lender's attorney fee in the sum of \$583.75. The question therefore arises as to whether he may also be reimbursed for the cost of the owner's attorney fee. We have held that an employee may be reimbursed for both legal fees if it is customary for the purchaser to be represented by his own attorney, as well as pay for legal services rendered by the mortgagee's attorney, and provided the fees are within the customary range of charges in the locality of the residence. Donald E. Wuerch, B-197319, August 12, 1980; Philibert A. Ouellet, B-191792, September 25, 1978; and Donald Mitgang, B-190616, March 22, 1978. Therefore, Mr. Ferris may also be reimbursed the cost of the fee charged by his own attorney if it is customary in the Miami area for the purchaser to be represented by his own attorney, as well as pay for legal services rendered by the lender's attorney, and provided the fee is within the customary range of charges in the Miami area.

Accordingly, (the reclaim voucher submitted is returned and may be certified for payment in accordance with this decision.)



For the Comptroller General  
of the United States